

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

D. LAWRENCE OLSTAD,

Plaintiff.

No.:

V

NOTICE OF REMOVAL

U.S. NATIONAL BANK, N.A.; QUALITY
LOAN SERVICE CORP OF WASHINGTON,
a Washington Corporation; CALIBER HOME
LOANS, INC., a Delaware Corporation,

Defendants.

TO: Clerk, United States District Court for the Western District of Washington at Tacoma

A. REMOVAL OF STATE COURT ACTION

Defendants U.S. Bank Trust, N.A. (“U.S. Bank”) and Caliber Home Loans, Inc. (“Caliber”) (collectively “Defendants”) are defendants in a civil action filed under Cowlitz County Superior Court No. 16-2-00152-2. Plaintiff’s complaint is attached hereto as Exhibit A. Defendants hereby remove the civil action to federal court. All defendants join in this removal.

B. FEDERAL QUESTION

1. The Federal Court Has Original Jurisdiction Over Subject Matter.

Plaintiff alleges that Defendants have violated federal rules governing mortgage backed securities and federal RICO law. The federal court therefore has original jurisdiction over the subject matter under 28 USC 1331.

2 Propriety of Removal

This action is removable under 28 USC 1441 because the federal court would have had

1 original jurisdiction over Plaintiff's claims had Plaintiff elected to file the action initially in
2 federal court. This U.S. District Court for Western Washington is the district embracing the
3 place where the state court action is pending, and is therefore the appropriate court for removal
4 pursuant to 28 USC 1441(a).

5 **C. DIVERSITY**

6 Defendants remove this action for the additional reason that complete diversity exists
7 under 28 USC 1332 because no defendant is a citizen of the state in which plaintiff is a citizen.
8 Plaintiff is a citizen of Oregon; Caliber is a citizen of Delaware and Texas; and U.S. Bank Trust
9 is a citizen of Delaware.

10 **1. Plaintiff Is A Citizen of Oregon**

11 Plaintiff D. Lawrence Olstad is citizen of Oregon. Mr. Olstad's mailing address of record
12 is in Portland, OR, and a LEXIS public records search by Defendants' counsel indicates Mr.
13 Olstad resides at the Portland address. In fact, all addresses of Mr. Olstad (current and former)
14 from the LEXIS search were in Oregon.

15 **2. Caliber is a Citizen of Delaware and Texas**

16 For diversity purposes, a corporation's citizenship includes the state of its principal place
17 of business and the state of incorporation. 28 USC 1332(c)(1): *Hertz Corp. v. Friend*, 130 S.Ct.
18 1181, 1183 (2010). Defendant Caliber is a corporation incorporated under the laws of the State
19 of Delaware with its principal place of business in the State of Texas.

20 **3. U.S. Bank is a Citizen of Delaware**

21 Under 28 USC 1348, as interpreted by *Wachovia Bank v. Schmidt*, 546 U.S. 303, 307
22 (2006), “[t]he State in which the main office is located qualifies as the bank's “home State” under
23 banking laws. Defendant U.S. Bank Trust is a national banking association whose Articles of
24 Association designate the location of its main office as Wilmington, Delaware.

25 **4. Defendant Quality Loan Service Corp. of Washington (“Quality”) is to be**

1 **Ignored for Purposes of Diversity Jurisdiction**

2 Quality should be ignored for purposes of diversity jurisdiction because it is a nominal
 3 party. Quality and the Plaintiff have executed a Stipulation of Nonparticipation (copy attached
 4 hereto as **Exhibit B**), which provides Quality is not required to participate in the litigation, and
 5 no money damages will be sought against Quality. Accordingly, Quality does not have an
 6 actionable relationship with Plaintiff. Quality should therefore be ignored for purposes of
 7 diversity because Quality is a nominal defendant.

8 **5. Amount in Controversy**

9 Generally, '[t]he amount in controversy is determined from the allegations or prayer of
 10 the complaint.' *St. Paul Mercy Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289 (1938). In actions
 11 seeking declaratory or injunctive relief, it is well established that the amount in controversy is
 12 measured by the value of the object of the litigation. *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840
 13 (9th Cir. 2002). This action concerns a mortgage loan secured by real property in Cowlitz
 14 County. Plaintiff alleges a number of claims for relief related to enforcement of the mortgage
 15 loan against the property, including an injunction against foreclosure. The balance of the
 16 mortgage loan is approximately \$300,000.00¹. The county's assessed value of the property in
 17 2015 was \$255,060². Thus, the object of the litigation is in excess of \$75,000.00

20 **D. REMOVAL IS TIMELY**

21 On February 18, 2016, Defendants first received a copy of the complaint. This notice is
 22 filed within thirty days of receipt, and is timely under 28 USC 1446(b)(1).

24 **E. STATE COURT COMPLAINT AND OTHER PLEADINGS**

25 Attached to this notice is a true and correct copy of the complaint which Plaintiff filed in

27 ¹ See Complaint Exhibit 2

28 ²[http://www.cowlitzinfo.net/applications/cowlitzassessorparcelsearch/\(S\(kdawe0vq5z1ay0bxwvwmgwney\)\)/ParcelDataCP.aspx?Account=R016147&Public=Y&Parcel=WK3104008](http://www.cowlitzinfo.net/applications/cowlitzassessorparcelsearch/(S(kdawe0vq5z1ay0bxwvwmgwney))/ParcelDataCP.aspx?Account=R016147&Public=Y&Parcel=WK3104008)

1 the state court. All other pleadings filed in the action are attached with the Verification of State
2 Court Records.

3 **F. INTRADISTRICT ASSIGNMENT**

4 Defendants choose to remove this action to the Tacoma Division because this action is
5 being removed from the Superior Court in Cowlitz County. Defendants are unaware of any basis
6 to reassign the case to the Seattle Division.

7 Dated: March 2, 2016

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9 MCCARTHY & HOLTHUS, LLP

10 /s/ Joseph Ward McIntosh
11 Joseph Ward McIntosh, WSBA #39470
12 Attorney for Defendants

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